

Civil Practice Tips for Cases Before a U.S. Magistrate Judge

1 Call the Magistrate Judge “Judge” or “Your Honor” at all times.

2 Be familiar with your Magistrate Judge. Many have bios on their court’s website; additionally, many of their judicial profiles can be found in issues of *The Federal Lawyer* (which has recently published an online index of profiles, available at www.fedbar.org/JudicialProfileIndex). You can also review bios on judgepedia.com and *The Judicial Almanac*.

3 Know how consent works in your district. Is your Magistrate Judge on “the wheel” for case assignment? Are there other means of consent? If you are going to consent, consider doing so early.

4 Look up the policies and procedures of your particular Magistrate Judge on the court’s website. Some Magistrate Judges have their own individual pretrial and trial procedures. In some courts, all the Magistrate Judges who sit in a particular seat of court will collectively operate by way of a general order—for example, some courts have a general order setting forth how Social Security disability appeals will be handled. In other courts, the Magistrate Judges and District Judges all work by way of one general order applicable to that seat of court. Such orders not only set forth a Magistrate Judge’s individual procedures; they detail, for example, which categories of cases are automatically referred to the Magistrate Judge (e.g., § 1983 cases).

5 Many Magistrate Judges routinely handle mediations. Sometimes, the Magistrate Judge assigned to the case will be the mediator; other times, a separate Magistrate Judge, whose only role is to serve as mediator, will be assigned for alternative dispute resolution purposes.

6 When it comes to mediation before a Magistrate Judge, be as objective as possible in the evaluation of the strengths and weaknesses of your case. Many Magistrate Judges request both parties to candidly evaluate their case in confidential letters.

Additionally, Magistrate Judges are experienced practitioners and will have researched the merits of your case and its chances of success prior to the mediation proceedings. A realistic outlook will help all parties benefit from the process and take advantage of the Magistrate Judge’s expertise.

7 Some Magistrate Judges handle civil pretrial matters by telephone in place of an in-court hearing. Know your local practice. If permitted, ask the Magistrate Judge’s law clerk for procedural guidance on how such matters are handled.

8 Be cognizant of the Fed. R. Civ. P. 72 deadline in which to file objections to an order or report and recommendation issued by a Magistrate Judge. Failure to file objections may mean you have waived your right to subsequent appellate review.¹

9 Magistrate Judges spend a significant amount of time on the resolution of discovery disputes, which can blossom into ongoing battles early on, expending time and client resources. Many Magistrate Judges are willing to hold informal telephone conferences on matters that have the potential to grow contentious, saving both the court and the parties time.

10 In resolving discovery disputes, be cognizant that Magistrate Judges have a full and busy docket. Be as succinct as possible, and don’t waste time attacking opposing counsel. ☺

Endnotes

¹See, e.g., *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981); *Park Motor Mart, Inc. v. Ford Motor Co.*, 616 F.2d 603 (1st Cir. 1980); *John B. Hull, Inc. v. Waterbury Petroleum Products, Inc.*, 588 F.2d 24 (2d Cir. 1978).

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